

House File 2416 - Introduced

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BY LUKAN

A BILL FOR

1 An Act providing an exemption from the computation of the state
2 individual and corporate income tax and franchise tax of
3 income derived from a registered Iowa patent and earned by a
4 qualified Iowa business or resident.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.7, Code Supplement 2011, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 57. *a.* Subtract, to the extent included,
4 the income derived from a registered Iowa patent and earned
5 by an Iowa resident who holds a valid, unexpired Iowa patent
6 certificate or a qualified Iowa business that holds a valid,
7 unexpired Iowa patent certificate.

8 *b.* The exemption in this subsection applies to income
9 derived from a registered Iowa patent on or after the date
10 the department issues an Iowa patent certificate for that
11 registered Iowa patent. The department shall issue Iowa patent
12 certificates beginning on or after July 1, 2012, for registered
13 Iowa patents. An Iowa patent certificate shall be valid for
14 five years from the date of issuance and shall be transferrable
15 to any other qualified Iowa business or resident according to
16 the rules prescribed by the department. A registered Iowa
17 patent for which an Iowa patent certificate has been issued
18 shall not be eligible for another Iowa patent certificate under
19 this subsection.

20 *c.* An individual may claim the exemption allowed a qualified
21 Iowa business that is a partnership, subchapter S corporation,
22 or estate or trust electing to have the income taxed directly
23 to the individual. The amount claimed by the individual shall
24 be based upon the pro rata share of the individual's earnings
25 of the partnership, subchapter S corporation, or estate or
26 trust.

27 *d.* The department shall adopt rules pursuant to chapter 17A
28 to administer this subsection.

29 *e.* For purposes of this subsection:

30 (1) "*Income derived from a registered Iowa patent*" means
31 either of the following:

32 (a) Royalties, licensing fees, or other income earned from
33 the licensing of a registered Iowa patent for use by another
34 qualified Iowa business or resident.

35 (b) Income earned from the use of a registered Iowa patent

1 by the qualified Iowa business or resident. However, the
2 exemption for this type of income shall not exceed the fair
3 market value of the royalties, licensing fees, or other income
4 that would have been earned by allowing use of the registered
5 Iowa patent by someone other than the qualified Iowa business
6 or resident. The fair market value must be determined in each
7 taxable year in which the qualified Iowa business or resident
8 claims an exemption under this subsection.

9 (2) "*Qualified Iowa business*" means a business whose
10 commercial domicile, as defined in section 422.32, is
11 in this state, and includes a sole proprietorship, joint
12 venture, partnership, limited liability company, corporation,
13 association, or any other business entity operated for profit.

14 (3) "*Registered Iowa patent*" means a patent issued under 35
15 U.S.C. § 101 or 35 U.S.C. § 161 that meets all the following
16 requirements:

17 (a) The patented process, machine, manufacture, or
18 composition of matter, or new and useful improvement thereof,
19 or plant, was invented or discovered by a qualified Iowa
20 business or resident.

21 (b) The patent was originally issued on or after July 1,
22 2012.

23 (c) The patent is registered with the department in
24 accordance with the forms and procedures prescribed by the
25 department.

26 Sec. 2. Section 422.35, Code Supplement 2011, is amended by
27 adding the following new subsection:

28 NEW SUBSECTION. 26. *a.* Subtract, to the extent included,
29 the income derived from a registered Iowa patent and earned
30 by an Iowa resident who holds a valid, unexpired Iowa patent
31 certificate or a qualified Iowa business that holds a valid,
32 unexpired Iowa patent certificate.

33 *b.* The exemption in this subsection applies to income
34 derived from a registered Iowa patent on or after the date
35 the department issues an Iowa patent certificate for that

1 registered Iowa patent. The department shall issue Iowa patent
2 certificates beginning on or after July 1, 2012, for registered
3 Iowa patents. An Iowa patent certificate shall be valid for
4 five years from the date of issuance and shall be transferrable
5 to any other qualified Iowa business or resident according to
6 the rules prescribed by the department. A registered Iowa
7 patent for which an Iowa patent certificate has been issued
8 shall not be eligible for another Iowa patent certificate under
9 this subsection.

10 c. The department shall adopt rules pursuant to chapter 17A
11 to administer this subsection.

12 d. For purposes of this subsection:

13 (1) "*Income derived from a registered Iowa patent*" means
14 either of the following:

15 (a) Royalties, licensing fees, or other income earned from
16 the licensing of a registered Iowa patent for use by another
17 qualified Iowa business or resident.

18 (b) Income earned from the use of a registered Iowa patent
19 by a qualified Iowa business or resident. However, the
20 exemption for this type of income shall not exceed the fair
21 market value of the royalties, licensing fees, or other income
22 that would have been earned by allowing use of the registered
23 Iowa patent by someone other than the qualified Iowa business
24 or resident. The fair market value must be determined in each
25 taxable year in which the qualified Iowa business or resident
26 claims an exemption under this subsection.

27 (2) "*Qualified Iowa business*" means a business whose
28 commercial domicile, as defined in section 422.32, is
29 in this state, and includes a sole proprietorship, joint
30 venture, partnership, limited liability company, corporation,
31 association, or any other business entity operated for profit.

32 (3) "*Registered Iowa patent*" means a patent issued under 35
33 U.S.C. § 101 or 35 U.S.C. § 161 that meets all the following
34 requirements:

35 (a) The patented process, machine, manufacture, or

1 composition of matter, or new and useful improvement thereof,
2 or plant, was invented or discovered by a qualified Iowa
3 business or resident.

4 (b) The patent was originally issued on or after July 1,
5 2012.

6 (c) The patent is registered with the department in
7 accordance with the forms and procedures prescribed by the
8 department.

9 (4) "*Resident*" means the same as defined in section 422.4.

10 EXPLANATION

11 This bill provides an individual and corporate income
12 tax and franchise tax exemption for income derived from a
13 registered Iowa patent and earned by a qualified Iowa business
14 or resident. "Registered Iowa patent" is defined as a patent
15 which is issued under 35 U.S.C. § 101, which is commonly
16 referred to as a utility patent, or 35 U.S.C. § 161, which
17 is commonly referred to as a plant patent, and which is
18 originally issued on or after July 1, 2012, registered with
19 the department of revenue, and invented or discovered by a
20 qualified Iowa business or resident. "Qualified Iowa business"
21 means any business whose commercial domicile is in this state.
22 "Commercial domicile" is defined in Code section 422.32 as
23 the principal place from which the trade or business of the
24 taxpayer is directed or managed.

25 Income eligible for the exemption includes royalties,
26 licensing fees, or other income earned from the licensing of
27 a registered Iowa patent for use by another qualified Iowa
28 business or resident. It also includes income earned from the
29 taxpayer's own use of the patent, but the exemption is limited
30 to the fair market value of the royalties, licensing fees, or
31 other income that would have been earned by allowing use of the
32 registered Iowa patent by someone other than the qualified Iowa
33 business or resident.

34 The bill provides that a qualified Iowa business or resident
35 must hold a valid, unexpired Iowa patent certificate in order

1 to claim the exemption provided in the bill. Iowa patent
2 certificates shall be issued by the department of revenue
3 for registered Iowa patents. The certificates shall be
4 transferrable to another qualified Iowa business or resident to
5 allow the buyer, assignee, or transferee of a registered Iowa
6 patent to take advantage of the income tax exclusion provided
7 in the bill, provided the other requirements for exemption are
8 met.

9 Each certificate shall be valid for five years and shall
10 be issued once per registered Iowa patent. As a result, each
11 registered Iowa patent will be eligible for a maximum of five
12 years of tax exemption under the bill.